

Court of Appeals, State of Michigan

ORDER

In re Robert Pettway Deceased

Docket No. 257641

LC No. 2002-650212-DE

Kurtis T. Wilder
Presiding Judge

Mark J. Cavanagh

Hilda R. Gage
Judges

The Court, acting under MCR 7.203(F)(2), orders that the motion for reconsideration is DENIED. There is no dispute that the June 1, 2004 order setting aside the distribution was a final order that was appealable as a matter of right to this Court. MCR 5.801(B)(1)(r) and 7.203(A)(2). Therefore, appellant had 21 days from the entry of this order to file either a claim of appeal or a postjudgment motion challenging the final order. MCR 7.204(A)(1)(a) and 7.204(A)(1)(b). When appellant chose the latter course of action by filing a postjudgment motion on June 16, 2004, she then had 21 days from the July 20, 2004 order denying her postjudgment motion to file a timely claim of appeal, which she did not do. MCR 7.204(A)(1)(b). Instead, appellant filed a second postjudgment motion on August 4, 2004, which did not further toll the time to file the claim. MCR 7.204(A). When appellant finally filed her claim of appeal on August 25, 2004, it was 15 days late. Therefore, this Court committed no error when it dismissed appellant's appeal as untimely.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

APR 15 2005

Date

Sandra Schultz Mengel
Chief Clerk